

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

STRATTON PEAY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:16-cv-130-SPB
)	
CO SAGER, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

This prisoner civil rights action was received by the Clerk of Court on June 6, 2016, and was referred to Magistrate Judge Lisa P. Lenihan and District Judge Barbara Rothstein. On September 14, 2018, the undersigned was sworn in as a United States District Judge. This action was reassigned to the undersigned, as presiding judge, on September 17, 2018, and was subsequently assigned to United States Magistrate Judge Richard A. Lanzillo for all pretrial proceedings on September 27, 2018, in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72(C) and (D) the Local Civil Rules of Court.

This case has had a convoluted history with attempts by the court to elicit a clear and concise complaint. On April 24, 2018, a third amended complaint (ECF No. 83) was filed pursuant to a court order requiring that an amended pleading contain specific allegations against each defendant according to the rules (ECF No. 82). Thereafter, a Motion to Dismiss this amended pleading was filed by the DOC Defendants (ECF No. 85) and a separate Motion to Dismiss was filed by Defendant Zupsic (ECF No. 88). Plaintiff responded to these motions (ECF No. 90). Prior to a ruling on these motions, Plaintiff filed, without leave of court, a fourth amended complaint (ECF No. 93), which was stricken from the record (ECF No. 94). Plaintiff

attempted to file this amended pleading again with an accompanying motion for leave, but the motion was denied. ECF Nos. 97, 98.

On October 18, 2018, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that the Defendants' motions to dismiss and/or for summary judgment be granted and that the complaint be dismissed with prejudice. ECF No. 105. Objections to the R&R were filed on October 25, 2018.

After *de novo* review of the complaint, the motions and responses, and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 3rd day of January, 2019;

IT IS ORDERED that the DOC Defendants' motion to dismiss (ECF No. 85) and Defendant Zupsic's Motion to Dismiss (ECF No. 87) are GRANTED, and the Complaint is DISMISSED with prejudice. The Clerk of Court is directed to close this case.

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on October 18, 2018 (ECF No. 105) is adopted as the opinion of the court.

/s/ Susan Paradise Baxter

SUSAN PARADISE BAXTER
United States District Judge